



M E M O R A N D U M
PUBLIC WORKS AND FACILITIES
ENVIRONMENTAL ENGINEERING DIVISION
County of Placer

TO: Board of Supervisors

DATE: July 25, 2017

FROM: Ken Grehm, Director of Public Works and Facilities
By: Brett Storey, Principal Management Analyst

SUBJECT: Environmental Engineering / Sustainable Groundwater Management Act / Approval of Participation Agreement between the Placer County and California American Water Company.

ACTION REQUESTED

Authorize the County Executive Officer to sign a Participation Agreement between Placer County and California American Water Company, with County Counsel and Risk Management concurrence.

BACKGROUND

The Sustainable Groundwater Management Act of 2014 (SGMA) requires local public agencies to achieve "sustainable groundwater management" by implementing various elements of the Act, including formation of a Groundwater Sustainability Agency (GSA) by June 30, 2017 and development of a Groundwater Sustainability Plan (GSP) by 2022. Department of Public Works and Facilities (DPWF) staff has been leading monthly meetings with other local agencies to collaborate on the formation of a GSA that will implement SGMA requirements for a portion of the North American Sub-Basin (NASb).

At the May 9, 2017 Board meeting, Placer County entered into a Memorandum of Agreement (MOA) with the City of Lincoln, the City of Roseville, Nevada Irrigation District, and Placer County Water Agency to form a multi-agency GSA, herein referred to as the West Placer Groundwater Sustainability Agency (WPGSA). Placer County has been designated the administering agency for all matters of the WPGSA. This MOA, along with all of the corresponding documentation has been sent to the Department of Water Resources (DWR) and currently is in the ninety day review period. It is important to note that under SGMA, only public water agencies and land use authorities may form a GSA; however SGMA does allow for investor owned utilities, such as the California American Water Company, to participate in a GSA.

The WPGSA MOA included language that allowed for the participation of the California American Water Company (CAWC, an investor owned utility) in the activities of the WPGSA through a Participation Agreement. As a participant, CAWC shall undertake activities and actions to carry out the purposes of SGMA, appoint a staff representative to participate in the WPGSA, vote on decisions related to the WPGSA funding, expenditure of funds, and CAWC funding contributions, make available staff time, information, and policy support as needed and within available resources, and share in the cost of the operating and administrative costs as outlined in the WPGSA MOA. This year, CAWC's contribution is \$25,000. The total WPGSA annual budget for 2017-18 is \$275,000.

ENVIRONMENTAL IMPACT

This action does not constitute a "Project" under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15378 (a) and (b)(5) because it is an administrative action that does not result in any direct or physical change in the environment.

FISCAL IMPACT

The Participation Agreement includes the process created in the MOA for establishing an annual fiscal year budget for the WPGSA that will run from July 1 to June 30 and sets forth the percent share for each participating agency, assuming participation by the California American Water Company. Under the Participation Agreement, the CAWC shall make an initial contribution of \$25,000 to the WPGSA, representing its share of general operating and administrative costs.

ATTACHMENTS

Participation Agreement

**PARTICIPATION AGREEMENT
BETWEEN THE WEST PLACER GROUNDWATER SUSTAINABILITY AGENCY
and CALIFORNIA-AMERICAN WATER COMPANY**

THIS PARTICIPATION AGREEMENT is entered into by and among the City of Lincoln, a municipal corporation, City of Roseville, a municipal corporation, the Nevada Irrigation District, a California irrigation district (NID), the Placer County Water Agency, a county water agency (PCWA), the County of Placer, a political subdivision of the state of California (hereafter known collectively as the "West Placer Groundwater Sustainability Agency" or "WPGSA") and California-American Water Company, a California corporation (all hereafter collectively identified as the "Parties").

RECITALS

A. Whereas, on August 29, 2014, the California Legislature passed comprehensive groundwater legislation contained in SB 1168, SB 1319 and AB 1739. Collectively, those bills, as subsequently amended, enacted the Sustainable Groundwater Management Act (SGMA). Governor Brown signed the legislation on September 16, 2014 and it became effective on January 1, 2015; and

B. Whereas, SGMA requires "sustainable groundwater management" for all groundwater basins or subbasins that are designated as high-priority or medium-priority basins by the Department of Water Resources' report entitled "California's Groundwater: Bulletin 118" ("Bulletin 118"); and

C. Whereas, the North American Subbasin of the Sacramento Valley Groundwater Basin, California Department of Water Resources Basin No. 5-21.64, has been designated as a high-priority subbasin in Bulletin 118; and

D. Whereas, SGMA provides that a combination of local agencies overlying a groundwater basin or subbasin may elect to become a Groundwater Sustainability Agency (GSA) for that basin, subbasin or portion of said basin or subbasin; and

E. Whereas, on May 10, 2017, the WPGSA was formed by Memorandum of Agreement (WPGSA MOA) to implement SGMA over a portion of the North American Subbasin of the Sacramento Valley Groundwater Basin (such portion hereinafter referred to as "Subbasin"); and

F. Whereas, a portion of the service area of California-American Water Company (California American Water or CAWC), a water corporation regulated by the California Public Utilities Commission, overlies the Subbasin and as such CAWC desires to participate in the long term management of the Subbasin; and

G. Whereas, since California American Water is not a local agency, it cannot form a GSA, but as a water corporation regulated by the Public Utilities Commission, it may participate in a groundwater sustainability agency through a memorandum of agreement pursuant to Water Code section 10723.6, subdivision (b); and

G. Whereas, the WPGSA and California American Water desire to enter into this Participation Agreement, pursuant to Water Code section 10723.6, subdivision (b), to provide for California American Water's participation in the West Placer Groundwater Sustainability Agency; and

H. Whereas, the WPGSA MOA anticipated and described California American Water's participation in the WPGSA.

THEREFORE, in consideration of the mutual promises, covenants and conditions herein set forth, the Parties agree as follows:

I. The Parties agree that CAWC shall participate in the WPGSA as described in the WPGSA MOA, a copy of which is attached hereto and incorporated herein. In the event of any conflict between this Participation Agreement and the WPGSA MOA, the terms of the WPGSA MOA shall prevail. Capitalized terms not defined herein shall have the meanings assigned to them in the WPGSA MOA.

II. CAWC agrees to undertake activities and actions to carry out the purposes of SGMA within the Subbasin, as follows:

- a. CAWC will appoint a CAWC Representative, and an alternate, who shall have authority to take action on behalf of CAWC as contemplated by the WPGSA MOA and this Participation Agreement and consistent with agreed upon activities and the Annual Budget.
- b. CAWC will provide support to the CAWC Representative and any third party facilitating the development of the GSP by making available staff time, information and facilities within available resources.
- c. CAWC will provide policy support to either approve, or respond quickly to, any recommendations made as to funding shares, operational decisions, and other policy areas.
- d. CAWC shall contribute its share of general operating and administrative costs of the WPGSA, as established by the annual Budget, subject to the approval of CAWC.
- e. CAWC shall make its initial contribution of \$25,000 to the WPGSA within thirty (30) days of the effective date of this Agreement.

III. TERMINATION

- A. Termination. The Parties may agree in writing to terminate this Agreement.

- B. Withdrawal of CAWC from WPGSA. CAWC may withdraw from the WPGSA, and thereby terminate this Agreement, effective upon one hundred eighty (180) day's written notice to all Members of the WPGSA. In the event CAWC withdraws from the WPGSA, CAWC shall be responsible for its share of financial obligations incurred under this Agreement and the WPGSA MOA prior to the effective date of the withdrawal.
- C. Use of Data. Upon withdrawal by CAWC, the WPGSA and CAWC shall be entitled to use any data or other information developed by the WPGSA during CAWC's time participating in the WPGSA.

IV. MISCELLANEOUS PROVISIONS

- A. Notice. Any notice or instrument required to be given or delivered under this Agreement may be made by: (a) depositing the same in any United States Post Office, postage prepaid, and shall be deemed to have been received at the expiration of 72 hours after its deposit in the United States Post Office; (b) transmission by electronic mail; or (c) personal delivery, as follows:
 - a. City of Roseville, Attn: City Clerk, 311 Vernon St., Roseville, CA 95678
 - b. City of Lincoln, Attn: City Clerk, 600 Sixth St., Lincoln, CA 95648
 - c. Placer County, Attn: Clerk of the Board, 175 Fulweiler Avenue, Auburn, CA, 95603
 - d. Placer County Water Agency, Attn: Clerk to the Board, 144 Ferguson Rd. P.O. Box 6570, Auburn, CA, 95604
 - e. Nevada Irrigation District, Attn: Clerk to the Board, 1036 West Main Street, Grass Valley, CA 95945
 - f. California American Water, Attn: General Manager, 4701 Beloit Dr., Sacramento, CA 95838
- B. Counterparts. This Agreement may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original. All such counterparts shall together constitute but one and the same instrument.
- C. Effective Date. This Agreement shall become effective on the date it is signed by the final party to the Agreement.
- D. Choice of Law. This Agreement shall be governed by the laws of the State of California.

- E. Severability. If one or more clauses, sentences, paragraphs or provisions of this Agreement is held to be unlawful, invalid or unenforceable, it is hereby agreed by the Parties that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provisions shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.
- F. Headings. The paragraph headings used in this Agreement are intended for convenience only and shall not be used in interpreting this Agreement or in determining any of the rights or obligations of the Parties to this Agreement.
- G. Construction and Interpretation. This Agreement has been arrived at through negotiation and each Party has had a full and fair opportunity to revise the terms of this Agreement. As a result, the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not apply in the construction or interpretation of this Agreement.
- H. Entire Agreement. This Agreement constitutes the entire agreement among the Parties and supersedes all prior agreements and understandings, written or oral. This Agreement may only be amended by written instrument executed by all Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first above-written.

CALIFORNIA-AMERICAN WATER COMPANY

By: _____

Printed Name/Title: S. Audie Foster, Director of Operations

Date: _____

COUNTY OF PLACER

By: _____

Printed Name/Title: David Boesch, County Executive Officer

Date: _____

Approved As to Form

By: _____

County Counsel

Date: _____

CITY OF LINCOLN, a municipal corporation

BY: _____
Matthew Brower
City Manager

ATTEST:

BY: _____
Gwen Scanlon
City Clerk

CITY OF ROSEVILLE, a municipal corporation

BY: _____
ROB JENSEN
City Manager

ATTEST:

BY: _____
SONIA OROZCO
City Clerk

APPROVED AS TO FORM:

BY: _____
ROBERT R. SCHMITT
City Attorney

APPROVED AS TO SUBSTANCE:

BY: _____
RICHARD D. PLECKER
Environmental Utilities Director

Nevada Irrigation District

BY: _____
Remleh Scherzinger, P.E.
General Manager

PLACER COUNTY WATER AGENCY

BY: _____
EINAR MAISCH
General Manager

ATTEST:

BY: _____
CHERI SPRUNCK
Clerk to the Board

APPROVED AS TO FORM:

BY: _____
DAN KELLY
Staff Counsel